

NOT FOR PUBLICATION

CLOSED

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MICHAEL TACCETTA,

Petitioner,

v.

FEDERAL BUREAU OF PRISONS,

Respondent.

:
:
:
:
:
:
:
:
:
:
:
:

Hon. Faith S. Hochberg

Civil No. 13-4439 (FSH)

MEMORANDUM OPINION

Appearances:

Edmund Denoia
Critchley, Kimum, & Vasquez
75 Livingston Avenue
Roseland, NJ 07068
Attorney for Petitioner

David Vincent Bober
Office of the U.S. Attorney
District of New Jersey
402 East State Street
Room 430
Trenton, NJ 08608
Attorney for Respondents

HOCHBERG, District Judge:

This matter is before the Court upon Petitioner's writ of habeas corpus filed pursuant to 28 U.S.C. § 2241. The Petition will be denied.

IT APPEARING THAT:

1. Petitioner Michael Taccetta is an inmate at South Woods State Prison in Bridgeton, New Jersey, serving a 300 month federal sentence for RICO violations and obstruction of justice

and is also serving a concurrent 40-year state sentence related to convictions for racketeering conspiracy and extortion. In his Petition, Petitioner asserts that the Bureau of Prisons (“BOP”) erred when calculating his sentence by not allowing credit for time served in federal custody during the period of September 20, 1993, when he pled guilty to his federal charges, and July 21, 1994, when he was sentenced for his federal charges.

2. The ten months in question were applied to Petitioner’s state sentence. *See* Docket entry no. 8-1, Carr Declaration.
3. “The authority to calculate a federal prisoner’s release date for the sentence imposed, and to provide credit for presentence detention and good conduct, is delegated to the Attorney General, who acts through the Bureau of Prisons.” *Armstrong v. Grondolsky*, 341 F. App’x 828, 830 (3d Cir. 2009) (citing *United States v. Wilson*, 503 U.S. 329, 334-35 (1992)). “In calculating the sentence, the BOP determines (1) when the federal sentence commenced, and (2) whether there are any credits to which the prisoner may be entitled.” *Nieves v. Scism*, 527 Fed. App’x. 139, 140-141 (3d Cir. 2013) (citing 18 U.S.C. § 3585). The BOP calculates an inmate’s projected release date by factoring in the specifics of his federal sentence and all appropriate credits. *See Armstrong*, 341 F. App’x at 830. The key point of this calculative process is the well-settled legal principle that a federal prisoner cannot receive a so-called “double credit,” i.e., a credit for the time already credited against his state sentence. *See Wilson*, 503 U.S. at 337 (in enacting § 3585(b), “Congress made clear that a defendant could not receive a double credit for his detention time”).
4. Subsequent to the filing of this Petition, and pursuant to inquiry by the BOP, the State of New Jersey Department of Corrections has confirmed that Petitioner’s state sentence was credited for the federal custody time of September 8, 1993 until July 21, 1994. *See*

Docket entry no. 8-1, Carr Declaration, Attachment 12 (“...[I]nmate Taccetta’s NJ State sentence does include 362 days jail credit as awarded on his judgment of conviction. The time frame for this jail credit is 8/13/1933 to 8/9/1994.”).

5. Furthermore, Petitioner is not entitled to sentence credit pursuant to the exceptions to the § 3585(b) rule detailed in *Wilson*, as set forth in *Willis v. United States*, 438 F.2d 923 (5th Cir. 1971) and *Kayfez v. Gasele*, 993 F.2d 1288 (7th Cir. 1993).
6. Thus, since the period in question has been credited toward service of Petitioner’s state sentence, the Petition will be denied.

s/ Faith S. Hochberg
Hon. Faith S. Hochberg, U.S.D.J.

DATED: June 9, 2014